The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JACQUES BAUDOT, STELLA KWONG, ISAAC WONG, DENIS ROGER, ABDESSATTAR SASSI, and MARC BRANDT

Appeal 2007-1784
Application 09/777,609
Technology Center 2100

Decided: September 7, 2007

Before KENNETH W. HAIRSTON, JOHN C. MARTIN, and HOWARD B. BLANKENSHIP, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the final rejection of claims 1 to 13. We have jurisdiction under 35 U.S.C. § 6(b).

We hereby sustain the rejection of record.

STATEMENT OF THE CASE

Appellants have invented a fault tolerant method/platform that operates a process in an active state, operates a process in a standby state, and has switchover capabilities for promoting the process in the standby state to the active state. The method and platform replicates network connection status data of a network connection hosted by the active process from the active process to the standby process (Figures 1 and 3; Specification 2).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A method for hosting network connections in a fault tolerant platform having a process in an active state, a process in a standby state and switchover capabilities for promoting a process in the standby state to an active state, the method including:

replicating network connection status data of a network connection hosted by the active process from the active process to the standby process;

maintaining for the standby process a corresponding standby network connection updated with said replicated data; and

during promotion of the standby process to an active state, deactivating the network connection hosted by the active process without closing the connection on the network, transferring a network address of the active process to the standby process and activating the corresponding standby connection with that network address thereby hosting the connection on the promoted standby process, whereby the promoted standby process does not need to reopen the connection on the network.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Baskey	US 6,148,410	Nov. 14, 2000

The Examiner rejected claims 1 to 13 under 35 U.S.C. § 102(e) based upon the teachings of Baskey.

Appellants contend that "[b]ecause Baskey only discloses FTR-CRs '100, 105' that merely route IP packets, Baskey does not teach[,] disclose or suggest hosting 'a network connection' as recited by amended Claim 1" (Br. 6).

ISSUE

Does Baskey teach replicating network connection status data of a network connection hosted by the active process from the active process to the standby process?

FINDINGS OF FACT

The Examiner made a finding that Baskey teaches "replicating network connection status data of a connection hosted by the active process from the active process to the standby process *(i.e., the Synchronization Manager 'SM' 220 of the active Fault Tolerance Recoverable TCP/IP Connection Router 'FTR-CR' 100 synchronizes the relevant internal data of its local FTR-CR with the SM of the standby FTR-CR 105 and sends periodic updates to the standby FTR-CR 105 to maintain the configuration and connection tables 106'-107' of the standby FTR-CR 105* ***identical to and synchronized with*** *the connection tables 106-107 of the active FTR-CR 100)* (Baskey, Figs. 1-2, C4: L54-67, C5: L67 - C6:L4 and C6: L35-50)" (Final Rejection 3).

As indicated *supra*, the Appellants contend that Baskey does not teach the claimed invention because he is merely routing IP packets via TCP/IP network connections (Br. 4 to 6).

In reply, the Examiner reiterated that the connection tables 106-107 "*keep track of all established connections, i.e., keep track of all network connection status data of the hosted network connections,*" and that Baskey does teach the noted claim limitation (Answer 8).

PRINCIPLES OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1946 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

The claims on appeal should not be confined to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323, 75 USPQ2d 1321, 1334 (Fed. Cir. 2005) (*en banc*).

During ex parte prosecution, claims must be interpreted as broadly as their terms reasonably allow since Appellants have the power during the administrative process to amend the claims to avoid the prior art. *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

ANALYSIS

Nothing in the claims on appeal indicates that the claimed network should be confined to a specific embodiment described in Appellants' disclosure. Thus, Appellants' argument concerning the specific type of network described by Baskey is without merit since the claims on appeal are not limited to a specific type of network. When the claims on appeal are given their broadest reasonable interpretation, we find that the Examiner has correctly concluded that the noted claim limitation reads directly on the referenced teachings of Baskey.

CONCLUSION OF LAW

Anticipation has been established by the Examiner for claim 1. Anticipation has been established by the Examiner for claims 2 to 13 because the Appellants have not presented any patentability arguments for these claims apart from the argument presented for claim 1 (Br. 6 and 7).

DECISION

The anticipation rejection of claims 1 to 13 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

MARTIN, *Administrative Patent Judge*, concurring.

As noted by the majority, the Examiner reads the step of "replicating network connection status data of a network connection hosted by the active process from the active process to the standby process" (claim 1) on the periodic updating of the data in connection table 106' of standby FTR-CR 105 with the data from connection table 106 of active FTR-CR 100 (Final Rejection 3). The Examiner characterizes the connection data stored in these tables as representing "all network connection status data of the *hosted* network connections" (Final Rejection 6) (emphasis modified).

Appellants' sole argument against the rejection appears to be that the data stored in connection tables 106 and 106' does not represent network connections that are "hosted" by the FTR-CUs and more particularly by the active FTR-CR (100), as is required to satisfy the above-quoted "replicating" step. I do not agree. The FTR-CR 100 distributes requests to a cluster of servers 190 (col. 3, ll. 24-26). Appellant has not explained, and it is not

otherwise apparent, why it would be inaccurate to characterize FTR-CR 100 as "hosting" the network connections it establishes with the selected server or servers from the cluster of servers. Furthermore, Baskey refers to FTR-CRs 100 and 105 as "host" FTR-CRs at column 5, lines 48-50; column 7, line 58; and column 8, lines 9-10. Nor does Appellant deny that the information that identifies the connections between FTR-CU 100 and the selected server or servers would be included in the connection status data stored in the connection tables.

I therefore concur in affirming the anticipation rejection with respect to claim 1 and also with respect to claims 2-13, which have not been separately argued.

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400